IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

CRP.No. 1099 of 2007()

AGAINST THE ORDER IN E.P.176/2006 OF MUNSIFF COURT, CHITTUR
IN O.S. 57/01 OF PRINCIPAL MUNSIFF COURT, PALAKKAD

REVN. PETITIONER:

N.V.DAVID, S/O VARGHESE, AGED 42 YEARS,
RESIDING AT 732/2, POKKAMAD P.O.,
POTHUNDI, ELAVANCHERRY VILLAGE, PALAKKAD

BY ADV. SRI.JOHNSON P.JOHN

RESPONDENTS:

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1. SAHYA FINANCE AND CHITTS (P) LTD.,
REP. BY ITS CHAIRMAN, C.V. THAMBI,
31/106. CHEERAN HOUSE, PATTIKARA, PALAKKAD

2. P.P.KOSI S/O PAULOSE AGED 54 YEARS,
RESIDING AT POKKAMADA POTHUNDY,
ELAVANCHERY VILLAGE PALAKKAD DISTRICT.

3. T.P. PATHROSE, S/O PAILY AGED 48 YEARS,
RESIDING AT 229/7 KRIMBARA,
KAIRADI VILLAGE, PALAKKAD

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 13/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J.

C.R.P. NO. 1099 OF 2007

Dated this the 13th day of December, 2007

ORDER

This civil revision petition is preferred against the order of the Munsiff Court, Chittur in E.P. No.176/2006 in O.S. No.57/2001. The court below found the means of the judgment debtor and ordered arrest. It is that order which is challenged in this C.R.P.

2. It is seen that the present revision petitioner had property. But it has come out in evidence that the said property was sold in auction for realisation of amounts due in another decree and after satisfying the decree debt there was a balance consideration of Rs.29,000/- which had been withdrawn by him. In an application for setting aside the ex parte order and to condone the delay, he himself has made averments that he is having his own job and as part of his avocation he has to go to various places. Now thereafter he wants to put up a contention that he is a job less person and is depending on others for his livelihood. Rightly, the court below has accepted the same and reject those prayers.

3. I do not find any ground to interfere with the finding of the

court below of no means. But at the same time I am persuaded by the argument of the learned counsel for the revision petitioner that the person is under dare circumstances and therefore some indulgence has to be show to him for making the payment. Therefore I dispose of the C.R.P as follows:

(i) The finding of means is confirmed.

(ii) The revision petitioner is directed to make the payment of the decree debt in six equal monthly instalments of which, the first monthly instalment will commence on 17.1.08. If there is default of payment of the first instalment or two other consecutive instalments, he will forfeit the benefit granted to him under this order and the decree holder can request the court for executing warrant of arrest against him.

(iii) In the light of the above directions, the court below is directed not to execute the warrant of arrest for the time being.

M.N.KRISHNAN, JUDGE

vps